

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, December 19, 2012
10 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: December 6, 2012

RE: Closed Session of the Board to be held on December 19, 2012

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any item not resolved in this meeting will be continued to subsequent meetings as indicated in the minutes.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. CUSTOM DRYWALL, INC., 11-R1D4-0729 AND 0730
2. FOSTER DAIRY FARMS, 10-R2D1-1981
3. JACOV HERSCU DBA JACK'S GENERAL CONTRACTING, 11-R1D4-1725 THROUGH 1729
4. ORANGE COUNTY FIRE AUTHORITY, 12-R3D1-0364
5. WEST CONTRA COSTA SCHOOL DISTRICT, 11-R2D2-1194

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DECISION AFTER REMAND:

1. SIERRA FOREST PRODUCTS, 09-R2D5-3979

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ADVENTURES BOAT RENTALS, 12-R3D1-0437
2. ALAR STAFFING, 12-R3D1-0946
3. ALPHA CERAMIC SUPPLIES, INC DBA ALPHA FIRED ARTS,
12-R2D1-1191
4. ALL SEASONS ROOFING & WATERPROOFING INC. DBA ALL SEASONS
ROOFING & SOLAR, 12-R1D2-1410 AND 1411
5. ARA'S PASTRY, 11-R6D2-2948 THROUGH 2954
6. BED BATH & BEYOND, 12-R4D3-1089
7. BERGELECTRIC CORPORATION, 12-R4D3-0755
8. BEST CONTRACTING SERVICES, INC., 12-R3D5-0643
9. CALIFORNIA CLEANERS, 09-R4D1-4220 AND 4221
10. CBC FRAMING, INC., 12-R6D7-2172 THROUGH 2174
11. CEDRO CONSTRUCTION, 12-R3D5-0276 THROUGH 0278
12. CHARLES AHLEM RANCH, 12-R2D4-0360 THROUGH 0362
13. CITY OF SANTA ROSA/UTILITIES DEPARTMENT, 12-R1D5-1928
14. CON-QUEST CONTRACTORS, INC., 11-R5D1-3161
15. CONTROL AIR CONDITIONING CORP., 11-R4D3-1996 THROUGH 1998
16. COUNTY OF ALAMEDA SOCIAL SERVICES AGENCY, 11-R1D4-3064
17. CUSTOM HOME INDUSTRIES, INC., 11-R1D5-2920

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18. DEARDORFF-JACKSON CO., DBA DEARDORFF FAMILY FARMS,
12-R4D3-1227 AND 1228
19. DEMAND DRIVEN DISPLAYS, 11-R3D6-2365 THROUGH 2366
20. EARTHBOUND FARM, 11-R1D2-2955
21. ENTERPRISE HOLDINGS, 11-R4D1-3229
22. EXECUTIVE TOOL INC., 11-R6D2-3319 THROUGH 3324
23. FBD CONSTRUCTION, INC., 12-R6D7-1476
24. FIRST TRANSIT, 12-R3D6-1237
25. FORREST SILVA CRUSHING, 12-R2D4-0299
26. IGT, LLC DBA EIGEN, 12-R2D1-1414
27. INTERPAC TECHNOLOGIES, INC., 08-R2D1-4199 AND 4200
28. JACOB CLOTHING COMPANY, INC., 12-R4D2-1086 THROUGH 1088
29. KLEIN FOODS, INC., DBA RODNEY STRONG WINERY, 12-R1D5-0565
AND 0567
30. M.A. GARCIA AGRILABOR INC., 12-R2D1-0978
31. McCARTHY CONSTRUCTION, INC., 12-R3D2-0319
32. MCH ELECTRIC, INC., 11-R1D4-3205 THROUGH 3206
33. MR. GOODYEAR, INC., 12-R3D6-1215 AND 1216
34. PEKING NOODLE CO INC., 11-R6D2-2980 THROUGH 2985
35. PG& E CORPORATION DBA PACIFIC GAS & ELECTRIC CO.,
12-R4D3-0513
36. PHP INSURANCE SERVICES, INC., 12-R1D2-1621
37. PREMIER MUSHROOMS LLP, 11-R2D3-3140
38. DR. IMAD H. RASOOL, 12-R4D3-1095 THROUGH 1098
39. RICE FIELD CORPORATION, 12-R3D6-0787

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40. RICHWAY INTERNATIONAL CORP., 12-R4D2-1129
41. ROWLAND UNIFIED SCHOOL DISTRICT, 12-R3D6-1176
42. SAFARI WEST, LLC., 12-R1D5-1899
43. SARBONNE DEVELOPMENT LLC., 11-R4D1-3303 AND 3304
44. SAVE MART SUPERMARKETS, 11-R2D2-3030 THROUGH 3033
45. SOLARIS PAPER, INC., 12-R3D6-0870
46. STAFFING SYSTEMS INC., 12-R3D5-0898
47. STARBUCKS CORP DBA STARBUCKS COFFEE, 12-R3D5-0368
48. SUNCREST APARTMENTS, 12-R2D4-0352
49. SUPERIOR READY MIX CONCRETE, LP, 12-R5D2-0586
50. THE HOME DEPOT ATLANTA SSC DBA THE HOME DEPOT #8987,
12-R3D3-2764 THROUGH 2766
51. T L PAVLICH CONSTRUCTION, INC., 11-R3D6-1313 AND 1314
52. TOWNSEND & SCHMIDT MASONRY, 11-R2D1-2924 AND 2925
53. VANGUARD FABRICATIONS CORPORATION, 12-R3D3-0990
54. VCS, INC., 11-R1D5-2921 AND 2922
55. VENTURA COUNTY FIRE DEPARTMENT, 12-R4D3-2195
56. W.A. HYNES AND COMPANY, INC., 12-R1D5-1005 AND 1006
57. WARSTEIN LIMITED, 12-R4D1-1127
58. WHOLE FOODS MARKET, INC – ROSEVILLE, 12-R2D1-1413
59. YANNETY LANDSCAPE CO., INC., 12-R4D1-1179

ORDER DISMISSING APPEAL:

1. ASPEN LOGISTICS, 11-R6D4-3268

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ORDER DENYING LEAVE TO FILE LATE APPEAL:

1. ROGER AND ROSAURA FLOREZ DBA FLOREZ BAR & GRILL,
12-R6D7-9157

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

PETITIONS FOR RECONSIDERATION

1. COUNTY OF ALAMEDA, GENERAL SERVICES AGENCY,
11-R1D4-3064
2. PRESTON PIPELINES, INC., 11-R2D4-2530

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. LUIS & MIGUEL AGUIRRE DBA AGUIRRE CUTTING SERVICE,
12-R6D5-2869 ~ 2872
2. PERSONNEL PLUS, INC., 11-R3D5-1302
3. UNITED STATES COLD STORAGE OF CALIFORNIA, 11-R2D4-1342

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. A-1 PROTECTIVE SERVICES, INC., 10-R1D1-1592
2. AC TRANSIT, 08-R1D4-0135
3. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3785 AND 3786
4. ARMOUR STEEL CO., INC., 08-R2D1-2649 THROUGH 2655
5. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
6. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
7. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445

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AND 3448

8. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
9. CALIFORNIA ERECTORS, INC., 10-R1D2-2772 THROUGH 2775
10. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
11. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
12. COFFMAN SPECIALTIES, INC., 10-R3D3-3532
13. COMMERCIAL METAL FORMING, 09-R3D1-1592
14. COMMUNITY RECONSTRUCTION SOLUTIONS, INC., 11-R1D1-1484
15. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
16. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
17. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
18. DAVIS DEVELOPMENT COMPANY, 10-R3D1-3360 THROUGH 3362
19. DENIO'S ROSEVILLE FARMERS MARKET & AUCTION INC. 11-R2D1-2431
20. DISTRIBUTION CENTER MANAGEMENT GROUP (DCMG), 11-R3D3-2896
21. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
22. EZ MIX, INC., 08-R4D3-1898
23. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3687
24. HOME DEPOT, 10-R3D6-3284
25. HYDRO-SCIENCE OPERATIONS INC., 10-R1D2-0389
26. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
27. IRWIN INDUSTRIES, 08-R6D4-1454
28. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
29. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714

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30. LION RAISINS, INC., 08-R2D5-2253 AND 2254
31. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
32. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
33. MARINE TERMINALS, 08-R6D2-1920
34. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
35. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
36. ORANGE COUNTY FIRE AUTHORITY, 10-R3D1-3667
37. OWENS-ILLINOIS GLASS CONTAINER, INC., 09-R1D4-2021 AND 2022
38. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
39. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE
CONTRACTING, INC., 08-R2D1-0025 AND 0026
40. ROLLED STEEL PRODUCTS CORP., 10-R6D2-4047 AND 4048
41. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
42. SDUSD – PATRICK HENRY HIGH SCHOOL, 11-R3D2-1296 AND 1297
43. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
44. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
45. SMUD, 08-R2D1-4887 THROUGH 4889
46. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414
THROUGH 3418
47. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
48. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
49. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
50. VAN EVERY CONSTRUCTION, INC., 11-R1D4-0936 AND 0937

LEGISLATION:

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PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
2. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
3. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
4. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
5. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
6. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP,
34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
7. SMUD, 34-2010-80000723 (08-R2D1-4887)
8. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
9. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
10. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)
11. GUILLAUME GRAPEVINE NURSERY, INC., 34-2011-800001010
(08-R2D1-3273)
12. CA PRISON INDUSTRY AUTHORITY, CIV 1105778 (09-R1D5-2459
THROUGH 2461)
13. FLATIRON CONSTRUCTION CORP, 34-2012-800001029 (10-R4D1-2789)
14. HOLLANDER HOME FASHION, BS-135444 (10-R4D2-3704)
15. SECA EQUIPMENT REMOVAL & DISMANTLING, INC., 12CV01039

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16. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
17. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
18. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
19. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
20. SHERWOOD MECHANICAL, INC., 37-2012-00101466 (08-R3D2-4690 ~ 4693)
21. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
22. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
23. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
24. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
25. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
26. PRESTON PIPELINES, INC., 34-8012-80001277 (09-R6D7-3345)
27. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
28. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)

PERSONNEL: *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.